

ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of:

Amendment of Parts 20 and 24 of the  
Commission's Rules -- Broadband  
PCS Competitive Bidding and the  
Commercial Mobile Radio Service  
Spectrum Cap

Amendment of the Commission's  
Cellular/PCS Cross-Ownership Rule

WT Docket No 96-59

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To: The Commission

**SUPPLEMENT TO PETITION FOR RECONSIDERATION**

**THE NATIONAL PAGING & PERSONAL COMMUNICATIONS ASSOCIATION;  
PERSONAL TECHNOLOGY SERVICES, INC.: and DIGIVOX CORPORATION**

(collectively "Joint Petitioners") acting through their counsel and in accordance with Section 1.106 of the Commission's rules, 47 C.F.R. §1.106, hereby supplement their Petition for Reconsideration, which was filed on July 17, 1996 with the Commission, to add the following additional argument regarding the impact of the Commission's *Report & Order, in the matter of Amendment of Parts 20 and 24 of the Commission's Rules -- Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap; Amendment of the Commission's Cellular/PCS Cross-Ownership Rule*, 11 FCC Rcd 7824 (Slip Op. FCC 96-278, released June 24, 1996) ("Report & Order") on small businesses, such as the Joint Petitioners:

## **I. ARGUMENT**

In addition to violating The Contract With America Advancement Act of 1996, as discussed in the Petition for Reconsideration, the Commission also violated Section 604(a)(3) of the Regulatory Flexibility Act when it developed the rules for the D, E and F Block auctions. 5 U.S.C. §604(a)(3). That rule section requires an agency, when promulgating a final rule under the Administrative Procedure Act, 5 U.S.C. §553, to provide “a description of each of the significant alternatives to the rule consistent with the stated objectives of applicable statutes and designed to minimize any significant economic impact of the rule on small entities which was considered by the agency, and a statement of the reasons why each one of such alternatives was rejected.” The Commission, however, failed to specify alternatives to the new rules or how those rules could possibly minimize economic harm to small businesses. As explained in the Petition for Reconsideration, the Commission simply failed to consider the adverse impact of its new rules, as exacerbated by the short implementation period, on the statutorily-protected small businesses.

Section 242 of the Contract with America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996), amended 5 U.S.C. §611 to permit judicial review of noncompliance with the Regulatory Flexibility Act. Section 242 became effective on June 27, 1996, before the Report & Order was published in the Federal Register on July 1, 1996.

WHEREFORE, in light of the foregoing, the Joint Petitioners request that the Commission reconsider their *Report & Order* consistent with their Petition as hereby supplemented.

Respectfully submitted,

THE NATIONAL PAGING & PERSONAL  
COMMUNICATIONS ASSOCIATION

By: 

Eliot J. Greenwald  
Colette M. Capretz  
FISHER WAYLAND COOPER  
LEADER & ZARAGOZA L.L.P.  
2001 Pennsylvania Avenue, N.W.  
Suite 400  
Washington, D.C. 20006-1851  
(202) 775-3540

PERSONAL TECHNOLOGY SERVICES, INC.  
DIGIVOX CORPORATION

By:  (822)

J. Jeffrey Craven  
Paul C. Besozzi  
Jeffrey L. Ross  
PATTON BOGGS, L.L.P.  
2550 M Street, N.W.  
Washington, D.C. 20037  
(202) 457-6077

Their Counsel

DATED: July 26, 1996

**CERTIFICATE OF SERVICE**

I, Devora Willis, a secretary to the law offices of Fisher Wayland Cooper Leader & Zaragoza L.L.P., hereby certify that a true copy of the foregoing **"SUPPLEMENT TO PETITION FOR RECONSIDERATION"** was hand delivered this 26th day of July, 1996, to the following:

Chairman Reed Hundt  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

Commissioner James H. Quello  
Federal Communications Commission  
1919 M Street, N.W., Room 802  
Washington, D.C. 20554

Commissioner Rachelle Chong  
Federal Communications Commission  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554

Commissioner Susan Ness  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

William E. Kennard, Esq.  
General Counsel  
Federal Communications Commission  
1919 M Street, N.W., Room 614  
Washington, D.C. 20554

Blair Levin, Esq.  
Chief of Staff, Office of Chairman Hundt  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

Jackie Chorney, Esq.  
Legal Advisor, Office of Chairman Hundt  
Federal Communications Commission  
1919 M Street, N.W., Room 814  
Washington, D.C. 20554

Rudolpho M. Baca, Esq.  
Legal Advisor, Office of Commissioner Quello  
Federal Communications Commission  
1919 M Street, N.W., Room 802  
Washington, D.C. 20554

Susan Toller, Esq.  
Legal Advisor, Office of Commissioner Chong  
Federal Communications Commission  
1919 M Street, N.W., Room 844  
Washington, D.C. 20554

David R. Siddall, Esq.  
Legal Advisor, Office of Commissioner Ness  
Federal Communications Commission  
1919 M Street, N.W., Room 832  
Washington, D.C. 20554

Michele Farquhar, Esq.  
Chief, Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 5002  
Washington, D.C. 20554

Catherine Sandoval, Esq.  
Chief, Office of Communications Business Opportunities  
Federal Communications Commission  
1919 M Street, N.W., Room 644  
Washington, D.C. 20554

Kathleen O'Brien Ham, Esq.  
Chief, Auctions Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 5322  
Washington, D.C. 20554


Jay Markley  
Telecommunications Policy Analyst  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 5002  
Washington, D.C. 20554

Peter A. Tenhula, Esq.  
Special Counsel  
Office of the General Counsel  
Federal Communications Commission  
1919 M Street, N.W., Room 614  
Washington, D.C. 20554

D'Wana Speight, Esq.  
Legal Advisor  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 5002  
Washington, D.C. 20554

Mark Bollinger  
Wireless Telecommunications Bureau  
Federal Communications Commission  
2025 M Street, N.W., Room 5604-I  
Washington, D.C. 20554

James M. Carr, Esq.  
Litigation Division  
Office of General Counsel  
Federal Communications Commission  
1919 M Street, N.W., Room 602  
Washington, D.C. 20554

  
Devora Willis